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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,363	06/02/2005	Wiebe De Boer	US02 0527 US	3423

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NXP, B.V.  
NXP INTELLECTUAL PROPERTY DEPARTMENT  
M/S41-SJ  
1109 MCKAY DRIVE  
SAN JOSE, CA 95131

EXAMINER
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LUND, JEFFRIE ROBERT

ART UNIT	PAPER NUMBER
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1792

NOTIFICATION DATE	DELIVERY MODE
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04/30/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/537,363	<b>Applicant(s)</b> DE BOER, WIEBE	
	<b>Examiner</b> Jeffrie R. Lund	<b>Art Unit</b> 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The newly added limitation "without determining the temperature of the wafer from the electrical signal" (claim 1 and 12) and "the pyrometer is not part of the optical signal measurer" (claim 19) are not taught in the specification or drawings.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 7-20 are rejected under 35 U.S.C. 102(b) as anticipated by Johnsgard et al, 6,200,634 B1.

Johnsgard et al teaches a wafer manufacturing apparatus and method of controlling the temperature of the wafer manufacturing apparatus comprising: a

susceptor 524 including a support for a wafer 502, the wafer including a topside and a bottom side; a first sapphire optical fiber 826 connected to the susceptor so that radiation from near the edge of the bottom side of the wafer can 534 be monitored; a second sapphire optical fiber 850, 860 connected to the susceptor so that radiation from near the center of the bottom side of the wafer can 534 be monitored; an optical signal measurer 534 coupled to optical fibers and filters the light from the bottom of the wafer and converts it to an electrical signal and supplies the signal to a controller 536. The controller maintains a temperature of the wafer to keep the electrical signal constant during a deposition cycle. The optical fiber is integrated into the susceptor. The susceptor includes a rotating part 522 and a stationary part 528. The measurer inherently includes a filter that filters the light source allowing the desired light to pass. (Figures 5, 6A, 8 and 9)

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnsgard et al, US Patent 6,200,634 B1.

Johnsgard et al was discussed above.

Johnsgard et al differs from the present invention in that Johnsgard et al does not teach that the optical fiber is quartz.

Quartz is a well known material of construction for optical fiber. Furthermore, it has been held that: the selection of a known material based on its suitability for its intended use is prima facie obviousness (*Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945)); and reading a list and selecting a known compound to meet known requirements is no more ingenious than selecting the last piece to put in the last opening in a jig-saw puzzle (325 U.S. at 335, 65 USPQ at 301).

The motivation for making the optical fiber of Johnsgard et al out of quartz is to provide an alternate material of construction.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the optical fiber of Johnsgard et al out of quartz.

7. If it is held that the optical pyrometer 534 of Johnsgard et al does not contain a filter, the following rejection is made.

8. Claims 3, 6, and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnsgard et al, US Patent 6,200,634 B1, in view of Schietinger, US Patent Application 2003/0036877 A1.

Johnsgard et al was discussed above.

Johnsgard et al differs from the present invention in that Johnsgard et al does not teach a filter for filtering the optical signal or that the optical fiber is quartz.

Schietinger teaches an optical pyrometer 10 that includes a filter 18 for selectively filtering the emitted radiation to supply the photo detector with the desired wavelength of light (paragraph 0042), and a quartz optical fiber (paragraph 0058).

The motivation for adding a filter of Schietinger to the optical pyrometer is to

supply the proper wavelength of light to the optical pyrometer of Johnsgard et al.

The motivation for making the optical fiber of Johnsgard et al out of quartz is to provide an alternate material of construction. Furthermore, it has been held that: the selection of a known material based on its suitability for its intended use is prima facie obviousness (*Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945)); and reading a list and selecting a known compound to meet known requirements is no more ingenious than selecting the last piece to put in the last opening in a jig-saw puzzle (325 U.S. at 335, 65 USPQ at 301).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to add a filter to the optical pyrometer and make the optical fiber of Johnsgard et al out of quartz as taught by Schietinger.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited art teaches the technological background of the invention.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrie R. Lund whose telephone number is (571) 272-1437. The examiner can normally be reached on Monday-Thursday (10:00 am - 9:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Parviz Hassanzadeh can be reached on (571) 272-1435. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrie R. Lund/  
Primary Examiner  
Art Unit 1792

JRL  
4/26/09